THE HON'BLE SRI JUSTICE V.ESWARAIAH

W.P.NO.3083 OF 2006

DATED 20-2-2006

BETWEEN:

Ali Raza .. Petitioner

And

Municipal Corporation of Hyderabad

.. Respondent

THE HON'BLE SRI JUSTICE V.ESWARAIAH

W.P.NO.3083 OF 2006

ORDER:

Heard learned counsel appearing for the petitioner as well as the learned standing counsel appearing for the respondent.

The petitioner questions the notice issued under Section 636 of the Hyderabad Municipal Corporation Act, 1955 on 16.02.2006 vide letter No. 2/TPS/C4/MCH/2006 of the Assistant City Planner, Town Planning Section, Circle IV, Municipal Corporation of Hyderabad in directing the writ petitioner to

remove the unauthorized structure in respect of the premises bearing No.10-5-2/1/8, situated at Masab Tank, Hyderabad, wherein it is noticed that the petitioner had laid construction not covered by the sanctioned plan and converted the parking place in cellar floor other than parking and carried out the said construction as unauthorized and causing lot of inconvenience to the inmates of the building and also to the visitors of the building resulting vehicles are being parked on the roads creating lot of traffic congestion, accidents and public nuisance. It is stated that for the said notice, the petitioner filed representation before the respondent on 17.2.2006 stating that the respondent bearing permit No. 236/51, letter No.90/TPS/MCH/87, as per G.O.M.No.631, dated 05.10.1983 permitted the petitioner to construct sub cellar, cellar, ground floor + upper seven floors. The parking area is clearly indicated in the sanctioned plan and the area of the petitioner is outside the parking space.

The learned counsel appearing for the petitioner submitted the Judgment of this Court in **AMBA BAI TIWARI v THE SPECIAL OFFICER, MUNICIPAL CORPORATION OF HYDERABD, HYDERABAD AND ANOTHER** wherein it was held that without giving show cause notice against the proposed action, the respondents cannot pass final order giving 24 hours time to remove or pull down the alleged unauthorized structures without calling explanation.

It is to be seen whether the petitioner is in occupation of the area earmarked for the parking space in the cellar. It is stated that he is in occupation of the ground floor admeasuring 900 sq.feet and the said area is not earmarked for the parking space.

Having regard to the facts and circumstances of the case, the respondent is directed to consider and dispose of the representation of the petitioner dated 17.02.2006 and pass order before demolishing the so called structures said to have been constructed in the parking space contrary to the sanctioned plan. It is made clear that if any construction is made contrary to the permit No. 236/51 letter No.90/TPS/MCH/87, as per G.O.M.No.631, dated 05.10.1983 the respondent may take appropriate action forthwith.

Accordingly, the writ petition is disposed of No costs.

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20-02-2006

Note : Issue cc by tomorrow

kvrm